

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2003-003094

04/27/2009

HON. CAREY SNYDER HYATT

CLERK OF THE COURT

C. Vigil

Deputy

IN RE THE MARRIAGE OF  
MARK J GORZEN

MARK J GORZEN  
1209 SOUTH MAPLE  
TEMPE AZ 85281

AND

NAKOOLANI L GORZEN

THOMAS N O'LEARY

FAMILY COURT CONFERENCE  
CENTER-NE  
FAMILY COURT SERVICES-CCC  
DOCKET - NE  
MARK GORZEN  
350 E. UNIVERSITY DRIVE  
BOX 3333  
TEMPE AZ 85282

**JUDGMENT**

Prior to the commencement of these proceedings Respondent's Exhibits 1 through 13, 25, 26, 41 and Petitioner's Exhibits 14 through 24, 27-40 are marked for identification.

1:36 p.m. This is the time set for an Evidentiary Hearing on Petitioner's Continued Contempt for Non-Payment of Child Support and Attorney's Fees. Petitioner, Mark Gorzen, is present on his own behalf. Respondent, Nakoolani Gorzen, is present with counsel, Thomas O'Leary.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2003-003094

04/27/2009

A record of this proceeding is made by audio and/or video in lieu of a court reporter.

With respect to Respondent's Motion to Add Exhibits,

IT IS ORDERED granting Respondent's Motion to Add Exhibits.

Respondent's Exhibit 42 is marked for identification.

With respect to Respondent's Motion that Matters Proceed by Default,

IT IS ORDERED denying Respondent's Motion to Proceed by Default. However, Petitioner's untimeliness and lack of specificity in his filing will go to the weight the Court gives his testimony.

Mark Gorzen and Nakoolani Gorzen are sworn.

For the Respondent:

Nakoolani Gorzen now testifies.

Respondent's Exhibit 42 is received in evidence.

Respondent's Exhibit 43 is marked for identification and received in evidence.

Respondent's Exhibit 2 is received in evidence.

Respondent's Exhibit 3 is received in evidence.

Respondent's Exhibit 4 is received in evidence.

Respondent's Exhibit 5 is received in evidence, over objection.

Respondent's Exhibit 6 is received in evidence, over objection.

Respondent's Exhibit 7 is received in evidence, over objection.

Respondent's Exhibit 13 is received in evidence.

For the Petitioner:

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2003-003094

04/27/2009

Mark Gorzen now testifies.

Petitioner's Exhibit 44 is marked for identification and received in evidence.

Petitioner's Exhibit 15 is received in evidence.

Petitioner's Exhibit 16 is received in evidence.

Petitioner's Exhibit 17 is received in evidence.

Petitioner's Exhibit 18 is received in evidence.

Respondent's Exhibit 46 is marked for identification and received in evidence.

Petitioner's Exhibit 45 is marked for identification and received in evidence.

Both sides rest.

Closing arguments are presented to the Court.

Based upon the evidence and testimony evidence presented, together with the Court records,

The Court finds Petitioner/Father is significantly underemployed.

IT IS THEREFORE ORDERED denying Petitioner/Father's Motion to Modify Child Support as there has been insufficient proof of a substantial and continuing change in circumstances.

IT IS FURTHER ORDERED denying Respondent/Mother's Motion to Increase Child Support on the same basis.

The Court has prepared two child support worksheets as a basis for denying the motions to modify child support.

The Court finds Petitioner/Father has continued to fail to follow court orders in his inability to actually produce business records or proof of income and a current financial affidavit.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2003-003094

04/27/2009

The Court finds that Father is contempt of Court as he was aware of the Court order for payment toward his attorney's fees judgment at \$500 per month and his monthly child support obligation, and Father intentionally failed to pay those amounts on any consistent basis.

The Court finds that Father is in arrears in child support in the sum of \$4,056.31 for the period September 1, 2006 through April 30, 2009, plus interest of \$203.28 through March 31, 2009.

IT IS THEREFORE ORDERED that judgment is entered in favor of Mother and against Father in the total sum of \$4,259.59, plus interest at 10% per annum until paid in full, representing child support arrears plus interest from September 1, 2006 through March 31, 2009.

IT IS FURTHER ORDERED affirming the following:

1. The previous attorney's fees judgment in the sum of \$33,360 entered on December 22, 2004, with interest at the rate of 10% per annum until paid. Father has paid the sum of \$1,700 toward this judgment which has not yet been credited.
2. The previous attorney's fees judgment in the sum of \$800 entered on March 28, 2005, with interest at the rate of 10% per annum until paid.
3. The previous attorney's fees judgment in the sum of \$3,200 entered on September 8, 2005, with interest at the rate of 10% per annum until paid.
4. The previous attorney's fees judgment in the sum of \$7,500 entered on October 6, 2006, with interest at the rate of 10% per annum until paid.

IT IS ORDERED that the attorney's fees judgments shall be paid through the Support Payment Clearinghouse, to be paid to Mother and then forwarded to Mr. O'Leary.

LATER:

The Court has been advised that the Support Clearinghouse is unable to process payments on judgments for attorney's fees. Therefore,

IT IS ORDERED affirming that Petitioner/Father shall continue to pay the sum of \$500 per month toward the judgments on attorney's fees, to be paid by direct deposit to counsel O'Leary's trust account.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2003-003094

04/27/2009

IT IS FURTHER ORDERED affirming that Father continue to pay his current child support obligation to Mother of \$783.00 per month through the Support Clearinghouse.

IT IS FURTHER ORDERED that in order to purge himself of contempt, Father shall pay the sum of 5,000 toward his attorney's fees judgment by June 26, 2009, and an additional sum of \$2,100 toward his child support arrears by June 26, 2009.

IT IS FURTHER ORDERED that Father shall also need to continue to remain current on his monthly child support and attorney's fees payments to purge himself of his contempt.

IT IS FURTHER ORDERED that in order for Father to continue to purge himself of contempt he shall also pay an additional sum of \$5,000 toward his attorney's fees judgment by September 25, 2009, and an additional sum of \$2,100 toward his child support arrears by September 25, 2009.

IT IS FURTHER ORDERED directing the Family Court Conference Center to prepare an arrearage calculation for child support.

IT IS FURTHER ORDERED setting this matter for a **Review Hearing on July 15, 2009 at 4:00 p.m. (Allotted time: 60 minutes)**

IT IS FURTHER ORDERED that Mother and her counsel may appear telephonically. Father must appear in person. If Father fails to appear a civil arrest warrant will issue and/or child support arrest warrant may issue.

IT IS FURTHER ORDERED that no new petitions for contempt will be required to be filed. Counsel for Mother may file a Notice of Non-Compliance and a hearing will be set if Father fails to comply with the Court orders.

IT IS FURTHER ORDERED allowing counsel for Mother to file an Application and Affidavit of Attorney's Fees and Costs, and the Court will enter a ruling once the appropriate time has passed for any objection or response from Father.

IT IS FURTHER ORDERED that the parties shall exchange financial information every 12 months.

IT IS FURTHER ORDERED that the parties shall keep each other and the Court informed of their current residential addresses.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2003-003094

04/27/2009

There being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

IT IS ORDERED that the Clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked, or to their written designee. Counsel/party shall have the right to re-file relevant exhibits as needed in support of any appeal. Re-filed exhibits must be accompanied by a Notice of Re-filing Exhibits and presented to the Exhibits Room of the Clerk's Office. The Court's exhibit tag must remain intact on all re-filed exhibits.

IT IS FURTHER ORDERED that counsel/party or written designee take immediate possession of all exhibits referenced above.

ISSUED: Exhibit Release Form

IT IS FURTHER ORDERED signing this minute entry as a formal Order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

5:05 p.m. Matter concludes.

/ s / HONORABLE CAREY SNYDER HYATT

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JUDGE OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.